

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Amanda Harouche	Team: Squad #16	CCRB Case #: 201506329	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 07/30/2015 6:24 PM	Location of Incident: Seagate Avenue and Lyme Avenue	Precinct: 60	18 Mo. SOL 1/30/2017	EO SOL 1/30/2017	
Date/Time CV Reported Thu, 07/30/2015 10:40 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 07/30/2015 10:40 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Paulik	19162	948260	060 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Joseph Manfra	24896	957802	060 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Paulik	Abuse: PO Michael Paulik issued a summons to § 87(2)(b)	

### Case Summary

On July 30, 2015, § 87(2)(b) was driving on Neptune Avenue in Brooklyn when her car was stopped by PO Michael Paulik and PO Joseph Manfra of the 60<sup>th</sup> Precinct. § 87(2)(b) was issued a summons by PO Paulik for using an electronic device while driving. When given this summons, § 87(2)(b) said, “Fuck. I’ll make a complaint.” After the car stop, § 87(2)(b) drove away and was stopped by PO Paulik for a second time inside of the Sea Gate Community at the intersection of Seagate Avenue and Lyme Avenue. During this car stop, § 87(2)(b) was issued three summons, two for failing to signal and one for disorderly conduct unreasonable noise (**Allegation A**).

### Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation § 87(2)(b)
- As of September 21, 2015, § 87(2)(b) did not file a Notice of Claim with the NYC Comptroller’s Office (Board Review 01).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (Board Review 03).
- PO Paulik has been a member of the service for six years. He has had three prior complaints with five different allegations. He has one substantiated CCRB allegation. In CCRB 201409512, a search of person allegation was substantiated against PO Paulik; the CCRB recommended formalized training but the NYPD disposition is still pending (Board Review 11).

### Findings and Recommendations

#### Allegations not pleaded

- § 87(2)(g)

#### Allegation A –Abuse of Authority: PO Michael Paulik issued a summons to § 87(2)(b)

It is undisputed that officers conducted an initial vehicle stop to issue § 87(2)(b) a summons for using an electronic device while driving. It is further undisputed that PO Paulik conducted a subsequent vehicle stop of § 87(2)(b)’s vehicle and issued three additional summonses, two summonses for failing to signal when turning, and one summons for disorderly conduct – unreasonable noise.

§ 87(2)(g)

§ 87(2)(b) claimed that after she received the first summons during the initial stop, she told the officers, “Fuck. I will file a complaint” (Board Review 05). While PO Paulik and PO Manfra agree that § 87(2)(b) made this statement during the incident, both assert that the statement was not made until her vehicle was stopped for the second time (Board Review 08 and Board Review 09). In the statements section of the disorderly conduct summons, which was issued during the second

vehicle stop, PO Paulik wrote that § 87(2)(b) said, “Fuck you. I’ll make a complaint” (Board Review 04). While officers are expected to issue summonses for observed VTL violations, they are given latitude in when they can issue summonses as opposed to merely warning and admonishing these behaviors. However, the circumstances presented by § 87(2)(b)’s account of events—an account in which her vehicle is stopped for a second time immediately after telling PO Paulik that she would make a complaint about him—would lead one to question whether the second vehicle stop was pursuant to observed additional VTL violations or in retaliation for her statements about the complaint.

All parties agree that during the second vehicle stop, PO Paulik issued § 87(2)(b) a summons for disorderly conduct – unreasonable noise.

§ 87(2)(b) said that when she was pulled over the second time, she opened her door and tried to exit the car to ask the officers what happened but PO Paulik and PO Manfra yelled at her to sit down before she was able to exit. § 87(2)(b) denied that she yelled or that a crowd formed to witness the car stop (Board Review 05, Board Review 06).

PO Paulik stated that as he approached § 87(2)(b)’s car to request identification, § 87(2)(b) yelled and screamed at him, using the word “fuck” more than two times and threatening to make a complaint with the District Attorney’s office. She yelled for 45-60 seconds while he tried to obtain her identification. He observed at least three people behind him and across the street 15-0 feet from the car and a few more 50-70 feet away who appeared to have just exited a residence. These individuals watched the vehicle stop. None of the spectators interfered with the car stop or responded to § 87(2)(b)’s actions in any way, and no crowd control needed to be performed. § 87(2)(b) exited her car to yell at PO Paulik for an additional 10-15 seconds as he walked to his vehicle to write the summons. PO Paulik indicated that he was required to direct § 87(2)(b) to return to her car (Board Review 07, Board Review 08). PO Manfra corroborated PO Paulik’s statement about § 87(2)(b)’s behavior (Board Review 09, Board Review 10). PO Paulik stated that he decided to issue a disorderly conduct summons to § 87(2)(b) because of her behavior when she exited the vehicle to yell at him. PO Paulik believed that the loud volume of § 87(2)(b)’s voice was unreasonable, and that she was causing the crowd annoyance and alarm based on the looks on the faces of the spectators.

New York State Penal Law 240.20(2), states that a person is guilty of disorderly conduct when, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof in a public place, the individual makes unreasonable noise (Board Review 12).

According to People v. Baker, 2013 N.Y. Lexis 116 (2013), the mere use of coarse language toward a police officer is not enough, alone, to constitute the public harm element required for disorderly conduct. An isolated verbal exchange between a single individual and a police officer, without any other aggressive action or extenuating circumstances, is not likely to constitute disorderly conduct (Board Review 13). Likewise, the mere presence of spectators, without any indication that these spectators are likely to become involved in the dispute, is not enough to constitute disorderly conduct. The mere expression, even if uttered in a loud voice, that one feels aggrieved by officers does not constitute an offense of disorderly conduct. People v. Square, 20 Misc. 3d 1126 (1) (Crim. Ct. New York County 2008) (Board Review 14) § 87(2)(g)

§ 87(2)(g) [Redacted]  
[Redacted]  
[Redacted]

§ 87(2)(g) [Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

§ 87(2)(g) [Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

§ 87(2)(g) [Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

---

Pod: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature                      Print                      Date

Pod Leader: \_\_\_\_\_  
Title/Signature                      Print                      Date

Attorney: \_\_\_\_\_  
Title/Signature                      Print                      Date